

# **EXHIBIT 11**

HEALTH CARE FINANCING ADMINISTRATION  
 OFFICE OF COMMUNICATIONS & OPERATIONS SUPPORT  
 DIVISION OF CORRESPONDENCE CONTROL & MANAGEMENT: CONTROL 980121-0703

FROM: BEN CAMPBELL

DOL: 01/07/98

DOR: 01/21/98

CONSTITUENT: MICHAEL STONE

X-REF:

DUE TO DCCM:

DUE OUT: 02/11/98

ORG: SENATOR

PROVIDER NO:

SUB: COLORADO RC:  
 CONCERNING PROPOSED REDUCTION IN MEDICARE PAYMENT FOR DRUGS  
 ADMINISTERED IN PHYSICIAN OFFICES...CLM

KW:

REF FROM: DIR REPLY: DIRECT REPLY

HCFA OUT:

SENT TO	REFER	DUE	SENT TO	REFER	DUE
1. *CHPP	01/21/98	02/11/98	5. _____	_____	_____
2. <u>OL</u>	<u>2/5</u>	_____	6. _____	_____	_____
3. _____	_____	_____	7. _____	_____	_____
4. _____	_____	_____	8. _____	_____	_____

FYI: OL;MAT;GB;FILE

COMMENTS:

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DEPARTMENT OF HEALTH & HUMAN SERVICES

Health Care Financing Administration

Washington D.C. 20201 - 0001

FEB 11 1999

The Honorable Ben Nighthorse Campbell  
United States Senate  
Washington, DC 20510

Dear Senator Campbell:

Thank you for your recent letter concerning the legislative proposal contained in the President's FY 1999 budget to eliminate excessive Medicare reimbursement for drugs.

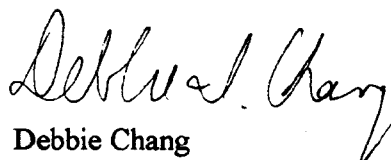
While Medicare does not have an expansive outpatient drug benefit, it does cover outpatient drugs that are furnished by a physician, oral cancer drugs, and certain specific drugs (e.g., those that is used with home infusion or inhalation equipment).

In a December 1997 report, the Inspector General of the Department of Health and Human Services found that Medicare currently pays hundreds of millions of dollars more than would be paid if market prices were used for 22 of the most common and costly drugs (many of which are used for chemotherapy). The Inspector General found that for more than one-third of the drugs studied Medicare pays more than double the actual acquisition costs of physicians and suppliers who bill Medicare for these drugs. The Inspector General found that Medicare's payment for these drugs, which is based on the "average wholesale price" (AWP), is substantially more than what the physician or supplier who furnishes the drug pays for it.

Although the Balanced Budget Act of 1997 reduced Medicare's payment for drugs to 95 percent of the AWP, it did not go far enough to eliminate physician mark-ups. The President's FY 1999 proposal would eliminate the mark-up by basing Medicare's payment on the actual acquisition cost of the physician or supplier. It should be noted that this proposal deals only with the cost of the drug itself. Medicare also makes a separate payment to physicians for the "administration" of cancer drugs which recognizes the resources involved with ordering, storing and handling and performing other tasks associated with administering such drugs. We do not believe that the President's FY 1999 proposal would have adverse consequences since it would pay physicians their costs for acquiring drugs but eliminate their mark-ups in furnishing them to beneficiaries.

I hope that this information is helpful to you.

Sincerely,

  
Debbie Chang  
Director, Office of Legislation

HHD058-0006

BEN NIGHTHORSE CAMPBELL  
COLORADO

CHP  
703

# United States Senate

WASHINGTON, DC 20510-0605

January 7, 1998

Ms. Debbie Chang  
Director, Congressional Affairs Division  
Health Care Financing Administration  
U.S. Dept. of Health and Human Services  
Room 341 H, 200 Independence Avenue, S.W.  
Washington, D.C. 20201

Dear Ms. Chang:

Enclosed is a copy of correspondence which I have received from Michael Stone and Robert Rifkin concerning proposed reductions in Medicare payment for drugs administered in physician offices.

Your review of this material and any suggestions for replying to this letter would be helpful. If there are questions, please contact Vivian Otteman of my staff at #202-224-0513. A reply, in duplicate, to Vivian's attention would be appreciated.

Many thanks for your assistance in this matter.

Sincerely,

  
Ben Nighthorse Campbell  
U.S. Senator

BNC:vo

RECEIVED  
JAN 16 1998  
HEALTH CARE FINANCING  
ADMINISTRATION  
EXHIBIT 1251710

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HHD058-0007

*neal*

2547 56th Ave.  
Greeley, Co. 80634  
Dec. 18, 1997

The Honorable Ben Campbell  
United States Senate  
Washington, D.C. 20510

Dear Senator Campbell:

President Clinton has recently announced that he will seek to further reduce the Medicare payment for drugs administered to patients in physician offices. As a medical oncologist treating cancer patients with chemotherapy, this will have a severe negative impact on my practice and on the care medicare patients will receive. In addition, I suspect that little if any money will actually be saved.

Currently almost all chemotherapy is administered in the most cost effective setting, namely the physician's office. Under the current system, we are reimbursed a very small amount above the price of the medications we use (which we purchase ourselves) but receive no reimbursement for supplies or nursing costs. The 1998 Medicare budget already calls for a 5% reduction in our drug reimbursement. The new proposals will further reduce this amount by basing reimbursement on a theoretical acquisition cost which will result in out of pocket losses to us.

Obviously, no business can operate at a loss. The effect of these changes will be that medicare patients will receive inferior care because of financial considerations, and that there will be a shift of treatment back to the more expensive hospital setting, which will negate any anticipated savings.

Please consider how you would wish a family member with cancer to be treated. Financial concerns must not be a way to ration care for life threatening illnesses. We are making steady progress in the fight against cancer. The administration proposal is a step backward in this battle. I would appreciate your help in opposing it.

Sincerely,

*Michael Stone*

Michael Stone M.D.



1997 3 12

December 22, 1997

The Honorable Ben Nighthorse Campbell  
United States Senate  
Washington, D.C. 20510

Dear Senator Campbell:

President Clinton recently announced that he will seek legislation to further reduce the Medicare payment for drugs administered to patients in physician offices. As an oncologist treating cancer patients, I administer a large number of chemotherapy drugs. I am very concerned about how this proposal may adversely affect my practice and patients.

The Administration proposal would supposedly base Medicare payment on the "actual acquisition cost" of the drugs, but this term would be defined in a way that would cause oncologists to suffer out-of-pocket financial losses. Congress rejected this defective proposal last year and instead passed a 5% reduction. The Administration, however, wants additional reductions.

Oncologists already incur losses resulting from the inadequate medicare payment for the nurses and supplies involved in administering chemotherapy. The combination of these losses and the payment reductions proposed by the Administration would result in a very difficult financial situation for my practice.

The Administration proposal would be harmful to cancer treatment. I would appreciate your help in opposing it.

Sincerely,

  
Robert M. Rifkin, M.D.

RMR/frmtl

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HHD058-0009